FEDERAL EMPLOYERS' LIABILITY ACT—SURVIVAL OF ACTION FOR INJURIES—CONTRIBUTORY NEGLIGENCE OF BENEFICIARY AS DEFENSE.—The plaintiff's sixteen year old son was injured while in the defendant's employ and died as a result of such injuries. The plaintiff had obtained this employment for his son by fraudulently misrepresenting his age as seventeen. This conduct by the father had been adjudged by the trial court as contributory negligence. *Held,* that the contributory negligence of the father was a defense to the action. *Crevelli v. Chicago, M. & St. P. Ry. Co.* (1917, Wash.) 167 Pac. 66.

The federal Employers' Liability Act of 1908 provided two distinct rights of action: one in the injured employee for his personal loss and suffering when his injuries were not immediately fatal, the other in his personal representative for the pecuniary loss sustained by certain designated relatives from his death, whether the death was instantaneous or resulted later. *Michigan Cent. R. R. Co. v. Vreeland* (1913) 227 U. S. 59, 33 Sup. Ct. 192. Prior to the Amendment of 1910 the first named right of action did not survive the employee's death. *American R. R. Co. v. Didricksen* (1912) 227 U. S. 145, 33 Sup. Ct. 224. But that Amendment provided for its survival for the benefit of the same relatives as were beneficiaries of the second cause of action above mentioned. *St. Louis Iron Mt. Ry. Co. v. Craft* (1915) 237 U. S. 648, 35 Sup. Ct. 704. In the principal case it was admitted that the father's contributory negligence was a defense to the second cause of action, *i. e.,* his right to recover for his own pecuniary loss due to his son's death; but the plaintiff contended that such negligence did not defeat recovery on the first cause of action, *i. e.,* the son's right to recover for his pain and suffering. Under state statutes where survival is for the benefit of the estate, it is generally held that the negligence of one who will ultimately be benefited is no bar to recovery. *Love v. Detroit etc. R. R. Co.* (1912) 170 Mich. 1; 135 N. W. 963; *Nashville Lumber Co. v. Busbee* (1911) 100 Ark. 76; 139 S. W. 301. The court attempts to distinguish such cases on the ground that recovery under the federal Act is for the benefit of named beneficiaries, and from this the court argues that the right of action which the Amendment causes to survive, is really a new right of action and that the beneficiary is therefore barred by his negligence. This construction of the Act seems opposed to the express terms of the Amendment and also to the language of the Supreme Court in *St. Louis & Iron Mt. Ry. v. Craft, supra.* Under a similar state statute, the Connecticut court has declared that negligence of the statutory distributee would not bar recovery by the administrator. *Wilmot v. McPadden* (1905) 78 Conn. 276, 284, 61 Atl. 1069, 1072; see also *Warren v. Manchester etc. Ry.* (1900) 70 N. H. 352, 47 Atl. 735. No precise authority construing the federal Act was cited by the court, and none has been found.

FOREIGN CORPORATIONS—SERVICE ON SECRETARY OF STATE UNDER STATUTE NOT REQUIRING NOTICE TO CORPORATION.—Section 405 of the California Civil Code provided for service of summons upon the Secretary of State in case a foreign corporation doing business in the state should fail to designate an agent for service. The Code did not provide for notification by the Secretary of State to the foreign corporation. *Held,* that the provision for such service was unconstitutional as not amounting to due process of law. *Knapp v. Bullock Tractor Co.* (1917, S. D. Cal.) 242 Fed. 543.

Authority on this subject is divided. See in support of the principal case, *King Tonopah Mining Co. v. Lynch* (1916, Nev.) 232 Fed. 485. The decision is opposed to that of the California Supreme Court on the same statute. *Olender v. Crystalline Mining Co.* (1906) 149 Cal. 482, 86 Pac. 1082. An apparently similar statute was upheld in North Carolina on the theory that a state, having the privilege of excluding foreign corporations altogether, may impose any con-